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**U.S. House of Representatives**  
**Committee on Commerce**  
Room 2125, Rayburn House Office Building  
Washington, DC 20515-6115

April 29, 1997

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Federal Communications Commission  
Office of Secretary

**The Honorable Reed Hundt**  
**Chairman**  
**Federal Communications Commission**  
1919 M Street, N.W.  
Washington, DC 20554

Dear Chairman Hundt:

I understand the Commission intends to issue access reform and universal service rules concurrently on or before May 8, 1997. Based on recent reports from your staff and in the press, I am deeply concerned that the Commission's current plans for access reform will lead to dramatic rate increases for local telephone service subscribers. Any local telephone rate increases resulting from Commission actions to raise the Subscriber Line Charge and modify access charges in a way that puts universal service subsidies at risk would be sharply at odds with Congressional intent in its passage of the Telecommunications Act of 1996.

As you know, no statutory mandate exists to complete the Commission's access reform proceeding concurrent with implementation of the universal service provisions contained in Section 254 of the Communications Act of 1934, as amended (the "Act"). Therefore, I strongly urge the Commission to refrain from issuing a Final Report and Order on access reform at this time, and instead issue a Further Notice to determine more precisely the impact of these proposed rules on local telephone rates.

It is indisputable that access charges and universal service are closely linked due to the existence of implicit subsidies in access charges that currently support universal service. Therefore, I believe it would be highly imprudent to issue final rules for access reform *unless and until* the following conditions are met:

1. the implicit subsidies contained in access charges that support universal service are identified and valued;
2. the implicit subsidies are made explicit; and,

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3. the amount of subsidy currently supporting universal service is recovered by eligible telecommunications carriers either through the federal universal service support mechanism established pursuant to Section 254 of the Act, or through an alternative mechanism that ensures their recovery by eligible telecommunications carriers as part of any new access charge regime.

The Commission's goal of restructuring access charges to a more economically efficient model is critically important, but must not be done before identifying and removing the implicit subsidies contained in the current access charge regime, and creating a separate mechanism for their recovery. Restructuring access charges without providing a separate mechanism to ensure recovery of the universal service subsidy would perpetuate the incentive for bypass, and seriously threaten the availability of basic telephone service at affordable rates. After implicit subsidies are removed and recovered through an alternative mechanism, economic bypass would no longer threaten the universal service principles embodied in the Act.

In its interconnection rules adopted last year, the Commission ordered that competitive LECs who offer local service by combining unbundled network elements ("rebundlers") would be required to pay access charges to incumbent LECs until no later than June 1, 1997. The rationale for this rule was to avoid bypass of access charges by rebundlers as long as these charges contain a subsidy for the support of universal service. A key underlying assumption was that any subsidy supporting universal service would be removed from access charges prior to June 1.

If the Commission allows access charges to continue to contain any universal service subsidy after June 1, the rebundler will be able to bypass payment of the subsidy regardless of whether it is designated an eligible telecommunications carrier pursuant to Section 214(e) of the Act. The rebundler effectively will pocket the universal service subsidy without having to assume any of the obligations imposed by a State commission on eligible telecommunications carriers for the purposes of receiving universal service support. This outcome directly contravenes the plain language of the statute, and I urge the Commission to extend the moratorium on access charge evasion by rebundlers until a Further Notice on access reform is completed and the enumerated conditions set forth above are met.

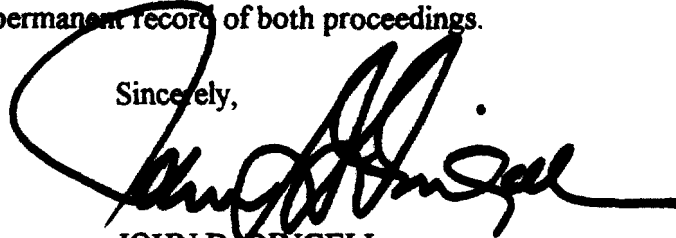
It has come to my attention that the Commission also is considering imposing a substantial increase in the Subscriber Line Charge (SLC) paid by certain consumers of local telephone service. I believe this action seriously would undermine the purpose and intent of Section 254 of the Act. Section 254 was enacted to ensure that basic telephone rates remain affordable for all Americans. The law provides that subsidies necessary to ensure continued affordability of basic telephone service should be funded by all telecommunications service providers on a non-discriminatory basis, and passed on to their customers as market conditions may allow. The law contains no provision that a portion of this cost should be borne by certain targeted consumers of basic telephone service.

The Honorable Reed Hundt  
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Attached is a list of questions that are pertinent to the access reform and universal service proceedings. Please provide a response to this letter and the attached questions by Friday, May 9, 1997.

Due to the fact that neither of these two proceedings is restricted at this time, there is no question that this letter is exempt from Commission rules regarding *ex-parte* communications during the sunshine period. However, in the interest of fairness, please instruct the Office of General Counsel to serve all parties to this proceeding with a copy of this letter and its attachment, and include each in the permanent record of both proceedings.

Sincerely,

A large, stylized handwritten signature in black ink, which appears to read "John D. Dingell". The signature is written over the word "Sincerely," and extends across the line for the name.

JOHN D. DINGELL  
RANKING MEMBER

**Attachment**

cc: Commissioner Rachelle Chong  
Commissioner Susan Ness  
Commissioner James H. Quello

## **ATTACHMENT**

1. Where in the Telecommunications Act of 1996 does the statute mandate the Commission complete its access reform proceeding concurrent with implementation of the universal service provisions contained in Section 254?
2. If the Commission is not required by law to reform access charges by May 8, 1997, why does it believe that access reform must be implemented concurrently with the universal service provisions of the Act?
3. Has the Commission identified the current level of implicit subsidy contained within access charges that supports the preservation of universal service? If so, what is the value of that implicit subsidy?
4. Will the Commission's access reform rules make explicit the portion of access charges that currently represents an implicit subsidy to support universal service? If so, will the explicit subsidy be funded and recovered through the federal universal service support mechanism prescribed by Section 254?
5. If the implicit universal service subsidy is made explicit, but will not be funded and recovered through the federal universal service support mechanism prescribed by Section 254, will its recovery be limited to eligible telecommunications carriers designated to receive universal service support pursuant to Section 214(e)? If not, please provide a detailed legal analysis supporting the Commission's conclusion that some portion of universal service subsidy may be recovered by entities not designated as eligible telecommunications carriers by a State commission.
6. If the implicit universal service subsidy is not made explicit, will eligible telecommunications carriers be guaranteed to receive access charges that implicitly contain a universal service subsidy? If not, please provide a detailed legal analysis supporting the Commission's conclusion that universal service subsidies currently contained in access charges may be precluded from recovery by entities designated as eligible telecommunications carriers by a State commission for the purposes of receiving universal service support.
7. Does the Commission intend to reduce access charges by an amount it deems to be "excess access," *i.e.*, access charge revenue in excess of the combined sum of economic cost plus the existing universal service subsidy contained therein? If so, what is the value of the "excess access" component, and how was its value determined?
8. If the Commission intends to reduce access charges by an amount it deems to be "excess access," what mechanism does the Commission intend to use to eliminate these charges?

9. **If the Commission plans to increase the productivity, or “x,” factor contained in its price cap regime, would incumbent LECs retain flexibility to target resultant price decreases to service elements of their choosing? If incumbent LECs would not retain this flexibility, please provide an analysis of the predicted effect on the competitive balance in the local exchange and exchange access markets.**
10. **What is the total value of the subsidies that will be provided to schools, libraries, and health care facilities as a result of the “Snowe-Rockefeller” provisions of the 1996 Act?**
11. **Please provide a list of the advanced telecommunications services that would be subject to a discount for schools and libraries. What is the total value of the subsidies provided to schools and libraries for advanced telecommunications services?**
12. **If internal connections and internet access are included in the list of advanced telecommunications services provided in #11 above, what is the value of each of these items? Please provide a detailed legal analysis supporting the Commission’s conclusion that these items are authorized for discounts pursuant to Section 254.**
13. **Please describe the administrative process by which the subsidies provided to schools, libraries, and health care facilities will be recovered by telecommunications service providers through the federal universal service support mechanism established pursuant to Section 254.**
14. **Please describe the revenue base upon which telecommunications service providers will contribute to the federal universal service support mechanism. Does the Commission intend to identify a different revenue base for contributions that directly support the Snowe-Rockefeller subsidies for schools, libraries, and health care facilities? If so, please provide a detailed legal analysis supporting the Commission’s conclusion that a different revenue base is authorized as the basis for contributions to fund the Snowe-Rockefeller provisions contained in Section 254.**